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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,861	02/04/2002	Gordon James Smith	ROC920010330US1	5139

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James R. Nock
IBM Corporation - Dept. 917
3605 Highway 52 North
Rochester, MN 55901

EXAMINER

WONG, KIN C

ART UNIT PAPER NUMBER

2651

DATE MAILED: 05/05/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,861

Applicant(s)

SMITH, GORDON JAMES

Examiner

K. Wong

Art Unit

2651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims (1-2, 10 and 14) are rejected under 35 U.S.C. 102(b) as being anticipated by Berglund et al (6233693).

Regarding claims 1, 10 and 14: Berglund et al discloses a procedural for an intelligent (or smart) spin-up for a disk drive that including steps of:

receiving a command (in col. 1, lines 10-54 where Berglund describes how the disk drive receives the start-up (or spin-up) command);

checking for disk drive start command (as depicted in figure 2B of Berglund et al);

responsive to identifying the disk drive start command (see steps 20, 21 and 22 in figure 2B), checking a no-start (no-redundant power) flag (see steps 23 of figure 2B and further depiction for the flag setting in figure 2D of Berglund et al);

and responsive to identifying the no-start flag being set (see step 29 in figure 2B), returning an error code without starting the disk drive (see steps 31, 32, 33 and 34).

Regarding claim 2: Berglund et al depicts that the step of starting the disk drive only responsive to identifying the no-start flag not being set (see steps 24, 25, 26, 27 and 28 in figure 2B).

Regarding claims 10 and 14: the apparatus claims (10 and 14) are drawn to the apparatus corresponding to the method of using same as claimed in claims (1 and 2), and are rejected for the same reasons of anticipation as used above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims (3-7, 11-12 and 16) rejected under 35 U.S.C. 103(a) as being unpatentable over Berglund et al in view of Deenadhayalan et al (6192481).

Regarding claims 11, 12 and 16: the reason for Berglund et al is stated in above rejection. Berglund et al fails to mention the monitoring of dead disk drive fault (or offline or removed drive or no-load) or identifying the fault disk drive. Deenadhayalan et al. is relied on the teaching of monitoring the disk drive as a dead (or offline or removed or absent or no-load) or identifying the flaw disk drive, and, set the flag to reflect the fault condition (see figures 3-5 and col. 3, line 43 to col. 4, line 51 of Deenadhayalan et al).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the flag with an error message that the disk drive is dead or offline or drive not ready as taught by Deenadhayalan et al. The rationale is as follows: one of ordinary skill in the art would have been motivated to provide an accurate count of the failed device as suggested in col. 1, line 51 to col. 2, line 3 of Deenadhayalan et al.

Regarding claims 3-7: the method claims (3-7) are drawn to the method of using the corresponding apparatus claimed in claims (11 and 12). Therefore method claims (3-7) correspond to apparatus claims (11 and 12) and are rejected for the same reasons of obviousness as used above.

Allowable Subject Matter

Claims (8-9, 13 and 16) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claims 8, 13 and 16: the prior art of record neither disclose nor suggest the no-load condition of the start up procedure in a disk drive that based on the failure of the transducer/head loading for generating the no-start flag and no-load condition signal.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yorimitsu (5729552) and Tsurumi (5915122) are cited for handling the disk drive activation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Wong whose telephone number is (703) 305-7772.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kw

30 Apr 04



DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2651